

REMARKS

Claims 1-15, 17-20, and 38-55 are pending in the present application. Claims 1-5 were previously withdrawn from consideration as drawn to a non-elected invention and claims 16 and 21-37 were previously cancelled. In this response, claims 6 and 40 have been amended. Support for the amendment to claim 6 is found, among other places, at paragraph 52 and in Figs. 19A-19B and 21 of the specification as originally filed. Support for the amendment to claim 40 is found, among other places at paragraph 51 and Figs. 16 and 17 of the specification as originally filed. No new matter is added. Furthermore, no claims have been cancelled or added. Accordingly, claims 1-15, 17-20, and 38-55 remain under consideration.

Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

Claim Rejections – 35 USC §102(e)

Claims 6-15, 17-20, and 38-55 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Buelna et al. (6,620,177). Regarding independent claim 6, the Office Action states that the flexible tube (250) in Buelna et al. is a protective shield. Specifically, the Office Action states that as seen in Figs. 10A and 10C, when the device of Buelna et al. is in the low profile position, element (250) closes the expandable region, and when open is over at least a portion of the expandable region, therefore reading on the limitation. With respect to independent claim 40, the Office Action states that the rod (241) of Fig. 10A in Buelna et al. is a deployment tube that is moveable to deploy the expandable region of the shaft to its expanded position.

Applicants strongly disagree that a protective shield is disclosed by Buelna et al. However, without acquiescing to the rejection and to expedite prosecution, claim 6 has been amended to recite that the protective shield has a non-deployed and deployed state, and that in its non-deployed state the protective shield has a folded configuration and its deployed state, the protective shield has an unfolded configuration. The flexible tube (250) of Buelna et al. is not described as having a folded configuration in its non-deployed state and an unfolded configuration

in its deployed state, as claimed. Accordingly, Buelna et al. clearly fails to be an anticipatory reference.

Applicants have also amended claim 40 to recite that the shaft (having the expandable region) is housed or enclosed by the deployment tube to expedite prosecution. Buelna et al. lacks any disclosure of this feature. In particular, the rod (241) of Buelna et al. is not housed by the deployment tube.

At least in view of the above, withdrawal of the rejection under 35 U.S.C. §102(e) is respectfully requested.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Office is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Office is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 506512002100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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